

Date of decision: 15/02/96

For Approval and Signature:

Hon'ble MR.JUSTICE C.K.THAKKER

1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

KAMLESH L AVASTTHI

vs

STATE OF GUJARAT

Appearance:

MR RJ OZA	for Petitioner
MR DA BAMBHANIA	for Respondent No. 1 and 2.
MR SM MAZGAONKAR	for Respondent No. 3

Coram : MR.JUSTICE C.K.THAKKER

ORAL JUDGEMENT

Rule. Mr.Bambhania appears and waives service for respondent Nos.1 and 2. Mr.S.M.Mazgaonkar appears and waives service for respondent no.3. In the facts and circumstances of the case, the matter is taken up for final hearing to day.

2. This petition is filed by the petitioner for an appropriate writ, direction or order directing the respondent authorities to continue revision of pay which was granted in favour of the petitioner by an order dt. August 9, 1990 by which the petitioner was granted revision of pay scales. The said order was passed by the Bhavnagar University, respondent no.3 herein. In the said

order itself, it was mentioned that the pay scale was granted subject to the approval of the Government. Looking to the order passed by the State Government, respondent no.1 on June 10, 1994, it is clear that proposal made by the third respondent University was not accepted by the State Government. It appears that thereafter respondent no.3 University again wrote a letter to the State Government on September 12, 1995. It was inter alia, observed in the said letter that claim of the petitioner was well founded in view of the fact that in similar circumstances two other Universities have granted pay scale to their employees. It appears that without referring to the said aspect and without recording any reason the order was passed by the State Government again. By subsequent order dt. November 14, 1995 Annexure.H to the petition, the State Government rejected the said proposal.

Mr.R.J.Oza, learned counsel for the petitioner raised many contentions. It is, however, not necessary to dwell upon all those contentions in view of the fact that the petition can be disposed of on a short ground.

Counsel contended that before passing the impugned orders dt. June 10, 1994 and November 14, 1995, no show cause notice was issued, no explanation was called for and no opportunity of hearing was afforded to the petitioner. It is not disputed by the respondents also. If the impugned order will be implemented the petitioner will be adversely affected. In that view of the matter the principles of natural justice require that before taking such action notice ought to have been issued to the petitioner and the opportunity of hearing ought to have been afforded to him. In view of the fact that it was not done, the impugned orders are required to be quashed and set aside only on the ground of violation of principles of natural justice.

Mr.Mazgaonkar states that respondent nos.1 and 2 may be directed to hear the University also. I am not issuing specific direction but Mr.Manzaonkar is right in submitting that necessary data regarding other Universities can be made available from respondent no.3. The respondent no.1 and 2 will also bear in mind this important aspect.

For the foregoing reasons, this petition is allowed. Rule is made absolute. The impugned orders dt. 10.6.1994 and 14.11.1995 are hereby quashed and set aside. It is, however, clarified that it is open to the authorities to pass appropriate order in accordance with law after affording hearing to the petitioner. It is needless to say that when both the orders are quashed and set aside, consequential order passed by the third respondent dt. 5.12.1995, Annexure.I to this petition, falls to the ground. Rule is accordingly made absolute with no order as to costs.
